

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04 11845 GAO

ROSARY DoCARMO, ADMINISTRATRIX )  
OF THE ESTATE OF MICHAEL DoCARMO, )  
Plaintiff )

v. )

C&V FISHING CORPORATION and )  
F/V ILHA do CORVO, )  
Defendants )

**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT**

**FIRST DEFENSE**

By way of affirmative defense the defendant states that the plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

The defendant responds to the allegations contained in the plaintiff's Complaint paragraph by paragraph as follows.

**(Parties and Jurisdiction)**

1. The defendants lack personal knowledge to either admit or deny the allegations contained in paragraph 1 of the plaintiff's Complaint.
2. The defendants admit the allegations contained in paragraph 2 of the plaintiff's Complaint.
3. The defendants neither admit nor deny the allegations contained in paragraph 3 because this paragraph contains a statement of law to which no response is required.

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**COUNT I**

**Negligence**

**(Rosary DoCarmo v. F/V ILHA do CORVO)**

4. The defendants admit the allegations contained in paragraph 4 of the plaintiff's Complaint.
5. The defendants admit the allegations contained in paragraph 5 of the plaintiff's Complaint.
6. The defendants deny the allegations contained in paragraph 6 of the plaintiff's Complaint.
7. The defendants deny the allegations contained in paragraph 7 of the plaintiff's Complaint.

WHEREFORE, the Defendants deny that the Plaintiff is entitled to recover, in any amount or fashion, from the Defendants.

**COUNT II**

**Unseaworthiness**

**(Rosary DoCarmo v. F/V ILHA do CORVO)**

8. The defendants repeat and incorporate by reference paragraphs 1 through 7.
9. The defendants neither admit nor deny the allegations contained in paragraph 9 of the plaintiff's Complaint because the defendants have no personal knowledge of same.
10. The defendants deny the allegations contained in paragraph 10 of the plaintiff's Complaint.
11. The defendants deny the allegations contained in paragraph 11 of the plaintiff's Complaint.
12. The defendants deny the allegations contained in paragraph 12 of the plaintiff's Complaint.

WHEREFORE, the Defendants deny that the Plaintiff is entitled to recover, in any amount or fashion, from the Defendants.

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**THIRD DEFENSE**

By way of affirmative defense, the defendant says that if the plaintiff's decedent suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct the defendant was not and is not legally responsible.

**FOURTH DEFENSE**

By way of affirmative defense, the defendant says that if the plaintiff's decedent was injured as alleged, which the defendant denies, those injuries were the result of an act of God for which the defendant is not legally responsible.

**FIFTH DEFENSE**

By way of affirmative defense, the defendant says that if the defendant was negligent or its vessel unseaworthy, which it denies, then the plaintiff's decedent's injuries, if any, were contributed to by the plaintiff's decedent's own negligence to such a degree that any recovery must be reduced pro rata.

**SIXTH DEFENSE**

By way of affirmative defense, the defendant's decedent says that if it was negligent or its vessel unseaworthy, which it denies, then the plaintiff's injuries, if any, were the result of the plaintiff's decedent's failure to act upon the last clear chance to avoid injury.

**SEVENTH DEFENSE**


By way of affirmative defense, the defendant says that if it is found liable to the plaintiff for any of her alleged damages, the amount of such liability is limited pursuant to the provisions of the Limitation of Liability Act, 46 U.S.C.A. §§181, et seq.

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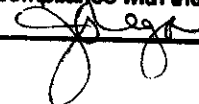
**THE DEFENDANTS DEMAND A TRIAL BY JURY.**

For the Defendants,  
By their attorneys,

**REGAN & KIELY LLP**

  
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I hereby certify that this document has  
been served upon all counsel of record  
in compliance with the FRCP

 10 Oct 04